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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/818,052	REYNOLDS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	CHRIS PARRY	2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 May 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-52 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 May 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 12 January 2009 have been fully considered but they are not persuasive.

In response to applicant's argument that (Page 15, 2<sup>nd</sup> ¶) the two-part substitution determination parameter specifies both an evaluation type and an evaluation value wherein the evaluation type specifies exactly how an evaluation will be performed and the evaluation value specifies a value that will be considered according to the evaluation type that was specified, the examiner respectfully disagrees.

The claim does not explicitly require that the substitution parameter is comprised of two separate data fields, one field to specify an evaluation type and one field to specify the evaluation value. If the claim incorporated ...said substitution parameter specifying an evaluation type, wherein the evaluation type is selected from the group

comprising of priority level, geographical region, and unique id and an evaluation value that corresponds to the selected evaluation type for determining when a subset of original broadcast meta data in said data signal should be replaced..., then applicant's two-part substitution determination parameter argument may overcome the OPT field disclosed by Del Sesto.

Del Sesto discloses OPT field 308 provides broadcast server 608 within subsystem 628 with the necessary information to first determine if the interactive content may be replaced (i.e., OPT field 308 is set to designate whether an interactive content may be replaced or "evaluation type") and second to determine what type of interactive content is currently present (i.e., OPT field 308 may include a flag that provides information to be interpreted locally for deciding what content to select to facilitate replacing the existing interactive content) (¶ 0058).

In response to applicant's argument, (starting on Page 15, 3<sup>rd</sup> ¶) stating Del Sesto reference only discloses a primitive OPT field 308 that only specifies a simple numerical value and not an evaluation type and an evaluation value, the examiner respectfully disagrees.

Applicant's claim requires a substitution determination parameter (i.e., OPT field 308) to specify an evaluation type (i.e., priority comparison based on determining whether an interactive content may be replaced) and evaluation value (i.e., set priority parameter, flag value, etc).

Del Sesto discloses extracted OPT field 308 provides broadcast server 608 within subsystem 628 with the necessary information to first determine if the interactive content may be replaced (i.e., OPT field 308 is set to designate whether an interactive content may be replaced) and second to determine what type of interactive content is currently present (i.e., the OPT field 308 may provide information to be interpreted locally for deciding what content to select to facilitate replacing the existing interactive content based on the results of the comparison) (¶ 0058).

Based on this disclosure by Del Sesto, broadcast server 606 or “evaluator” must perform two separate evaluations of OPT field 308. First, broadcast server 606 has to make the determination of whether the interactive content should be replaced, blocked, or passed through by local subsystem 628 by evaluating OPT field 308 (i.e., evaluation type is equal to comparison priority and value is equal to type of content transmitted). If OPT field 308 indicates that interactive content can be replaced, then broadcast server 608 will then evaluate the flag to determine the type of content included to facilitate selection of replacement content (i.e., broadcast server determines what content is currently present and what content from database 644 should be used to replace the existing content if permitted).

Furthermore, depending on the value of the flag set in OPT field 308 that indicates the type of interactive content included, broadcast server 608 determines whether the interactive content should be blocked or replaced. For example, if the interactive content is an advertisement wherein the local subsystem 628 does not derive revenue from, then the broadcast server can determine to remove the advertisement

completely and insert an advertisement where revenue may be derived from local subsystem 628 (¶ 0058).

Clearly Del Sesto discloses more than just a primitive OPT field 308 that only specifies a simple numerical value. OPT field 308 provides local subsystem 628 with the necessary information to determine if the interactive content should be replaced, blocked, or passed through (¶ 0058-0062). Thus a local content provider can evaluate the interactive content using OPT field 308 by first determining the priority of the interactive content and whether the content should be replaced, passed through or blocked by evaluating the flag present in OPT field 308 which indicates the type of interactive content transmitted (i.e., a ticker, a contest, an advertisement, etc.). Using OPT field 308, server 606 can determine whether to insert local interactive content or whether the interactive content should be blocked for legal reasons (¶ 0058 and 0062).

Therefore, Del Sesto teaches a data stripper (604 – figure 6, ¶ 0049) for extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from a data signal (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0058) said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of original broadcast meta data in said data signal should be replaced (¶ 0045, 0058, and 0062) and an evaluator (606 – figure 6; ¶

0049) for evaluating the substitution determination parameter [308], said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content ¶ 0060 & 0062) of said modification device [628] (¶ 0062-0065, 0056-0058 and 0045).

3. Applicant's failure to adequately traverse the Examiner's taking of Official Notice in the last Office Action is taken as an admission of the fact(s) noticed.

#### ***Claim Objections***

4. Claim 44 is objected to because of the following informalities: On line 5 of Claim 44, "said data modification system" should be --said data modification device--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 5, 8-10, 12, 14, 17-19, 22-25, 27-29, 31, 32, 37-39, and 41-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Del Sesto et al. "Del Sesto" (US Pub. No. 2007/0130581 A1).

Regarding Claim 1, Del Sesto discloses a data modification device, said data modification device comprising:

a data modification unit (local broadcast subsystem 628 – figure 6) coupled to an incoming data terminal (receiver 612 – figure 6), a local data terminal (interactive broadcast server 606 - figure 6), and a data distribution terminal (transmission facilities 620 – figure 6), wherein the data modification unit is adapted to selectively combine data from the incoming data terminal [612] and the local data terminal [644] in accordance with an instruction set (¶ 0049);

a data stripper (604 – figure 6, ¶ 0049) for extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from a data signal (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045 & 0058) said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content; ¶ 0058) for determining when a subset of original broadcast meta data in said data signal should be replaced (¶ 0045 & 0058-0062);

an evaluator (606 – figure 6; ¶ 0049) for evaluating the substitution determination parameter [308], said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content ¶ 0060-0062) of said modification device [628] (¶ 0062-0065, 0056-0058 and 0045); and

an inserter (608 – figure 6; ¶ 0049) for substituting said subset of original broadcast meta data (i.e., interactive content) in the data signal with local meta data (i.e., interactive content more suited to the demographics of local subsystem 628; ¶ 0057) based on the evaluator [606] comparison (¶ 0049 & 0065).

As for Claim 2, Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a multi-level priority value (i.e., whether the content should be blocked, passed through, or replaced) (¶ 0045 and 0062).

As for Claim 5, Del Sesto teaches wherein the incoming data terminal is adapted to receive a data signal that conforms to a TCP/IP standard (¶ 0051).

As for Claim 8, Del Sesto teaches wherein a format of the data on said incoming data terminal is an NTSC format (¶ 0029).

As for Claim 9, Del Sesto teaches wherein a format of the data on said incoming data terminal is an MPEG2 format (¶ 0029 and 0051).

As for Claim 10, Del Sesto teaches wherein a format of the data on said incoming data terminal is an HDTV format (¶ 0036, 0029, 0051, & 0018).

As for Claim 12, Del Sesto teaches wherein a format of the data on said incoming data terminal is an DBS format (¶ 0046, 0029, 0051, & 0018).

As for Claim 14, Del Sesto teaches wherein the local data terminal [606] is adapted to receive a data signal from a storage device [644] (¶ 0065).

As for Claim 17, Del Sesto teaches wherein the storage device is a computer database (¶ 0065).

As for Claim 18, Del Sesto teaches wherein the data distribution terminal is adapted to transmit a data signal to a distribution channel (¶ 0049 and 0061).

As for Claim 19, Del Sesto teaches wherein the data striper [604] is adapted to separate an incoming signal into a video data component and a meta data component (¶ 0049).

As for Claim 22, Del Sesto teaches the data modification device as set forth in claim 1, further comprising a receiver (CPE 648 – figure 6) adapted to display the combined data from the incoming data terminal and the local data terminal (¶ 0047 and 0029).

As for Claim 23, Del Sesto teaches wherein the receiver is an NTSC enabled television (¶ 0047 and 0029).

As for Claim 24, Del Sesto teaches wherein the receiver is an HDTV enabled television (¶ 0036, 0047, and 0029).

As for Claim 25, Del Sesto teaches wherein the receiver is an MPEG2 enabled television (¶ 0047, 0051, and 0029).

As for Claim 27, Del Sesto teaches wherein the receiver is a DBS enabled television (i.e., satellite receiver system) (¶ 0047).

Regarding Claim 28, Del Sesto discloses a data modification system for selective insertion of local meta data into an incoming data stream, the incoming data stream having a video data component and a meta data component, the data modification system comprising:

a data modification unit (local broadcast subsystem 628 – figure 6) coupled to an incoming data terminal (receiver 612 – figure 6) and a local data terminal (interactive broadcast server 606 - figure 6), wherein the data modification unit is adapted to selectively combine data from the incoming data terminal [612] and the local data terminal [644] (¶ 0049);

a data stripper (604 – figure 6, ¶ 0049) for extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from the incoming data stream (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of original broadcast meta data in said incoming data stream should be replaced (¶ 0045 & 0058-0062);

an evaluator (606 – figure 6; ¶ 0049) for evaluating the substitution determination parameter [308], said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0062) of said data modification system [628] (¶ 0062-0065 and 0056-0058 and 0045); and

an inserter (608 – figure 6; ¶ 0049) for substituting said subset of original broadcast meta data (i.e., interactive content) in the incoming data stream with local meta data (i.e., interactive content more suited to the demographics of local subsystem 628; ¶ 0057) based on the evaluator [606] comparison (¶ 0049 & 0065).

As for Claim 29, Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a multi-level priority value (i.e., whether the content should be blocked, passed through, or replaced) (¶ 0045 and 0062).

Regarding Claim 31, Del Sesto discloses a method of selectively modifying a data signal, said method comprising:

receiving a data signal (601 – figure 6), the data signal comprising a first data component (television signal) and a second data component (interactive content and interactive conditional code) (¶ 0047);

separating the first data component from the second data component (i.e., detector 604 detects the interactive content code 300 and provides the code 300 to server 606) (¶ 0049);

extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from the data signal (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data

parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of said second data component in said data signal should be replaced (¶ 0045 & 0058-0062);

determining whether to replace a subset of the second data component by performing an evaluation of the evaluation type on said evaluation value (¶ 0056-0058) with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0065, 0056-0058 and 0045);

retrieving a third data component (local interactive content from database 644) from a database (644 – figure 6), wherein the third data component includes local meta data from a local meta data center (¶ 0065);

replacing a subset of said second data component with the third data component based on the evaluation (¶ 0049 & 0065).

As for Claim 32, Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a multi-level priority value (i.e., whether the content should be blocked, passed through, or replaced) (¶ 0045 and 0062).

As for Claim 37, Del Sesto teaches where the first data component comprises video (¶ 0047).

Regarding Claim 38, Del Sesto discloses a method of selectively modifying a data signal, said method comprising:

receiving a data signal (601 – figure 6), the data signal comprising a first data component (television signal) and a second data component (interactive content and interactive conditional code) (¶ 0047);

separating the first data component from the second data component (i.e., detector 604 detects the interactive content code 300 and provides the code 300 to server 606) (¶ 0049) further comprises meta data parameters (i.e., interactive conditional code 303 – figure 3) and wherein the meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of the second data component in said data signal should be replaced (¶ 0045, & 0058-0062);

determining whether to replace a subset of the second data component by performing an evaluation of the evaluation type on said evaluation value (¶ 0056-0058) with respect to a local state (i.e., server 606 determines whether the subsystem 628

requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0065, 0056-0058, and 0045);

if replacement of said subset of the second data component is not required then forwarding the second data component (i.e., interactive content preparer specifies the content not be replaced using OPT field 308) (¶ 0045 and 0058), and

merging the forward second data component with the first data component (i.e., passing the signal through data insertion unit 608 unchanged and sending merged signal 609 to transmission facilities 620 unchanged) (¶ 0058, 0060, and 0064); and

if replacement of said subset of the second data component is required then retrieving a third data component from a database (local interactive content from database 644), wherein the third data component includes local meta data from a local meta data center (i.e., retrieving a local customized application that is designed for the geographic viewership) (¶ 0065 and 0057)

forwarding the third data component (figure 6; ¶ 0061 and 0065); replacing a subset of said second data component with the third data component (¶ 0049 and 0065).

As for Claim 39, Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a multi-level priority value (i.e.,

whether the content should be blocked, passed through, or replaced) and local state comprises a local priority value (¶ 0045 and 0062).

Regarding Claim 41, Del Sesto discloses a data modification system (628 – figure 6) for selective insertion of local meta data into a data stream, the data stream having a video data component and a meta data component, the data modification system comprising:

a data stripper (604 – figure 6, ¶ 0049) for extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from the data stream (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of meta data component in said data stream should be replaced (¶ 0045 & 0058-0062);

a data storage device for storing local meta data (644 - figure 6) (¶ 0065);

a processor (606 – figure 6; ¶ 0049) coupled to the data storage device [644] and the data stripper [604], the processor for evaluating the extracted substitution determination parameter [308], said processor performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606

determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0062) of said data modification system [628] (¶ 0062-0065, 0056-0058, and 0045); and a data insertion unit (608 – figure 6; ¶ 0049) coupled to the processor [606], the data insertion unit for replacing said subset of meta data component (i.e., interactive content) with local meta data (i.e., interactive content more suited to the demographics of local subsystem 628; ¶ 0057) based on the evaluation (¶ 0049 & 0065).

Regarding Claim 42, Del Sesto discloses a data modification system (628 – figure 6) for selective insertion of local meta data into a data stream, the data stream having a video data component and a meta data component, the data modification system comprising:

means for extracting (604 – figure 6, ¶ 0049) meta data parameters (i.e., interactive conditional code 303 – figure 3) from the data stream (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of original broadcast meta data in said data stream should be replaced (¶ 0045, & 0058-0062);

means for storing the local meta data (644 - figure 6) (¶ 0065);  
means for evaluating (606 – figure 6; ¶ 0049) the extracted substitution determination parameter [308], said means for evaluating performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0062) of said data modification system [628] (¶ 0062-0065 and 0056-0058); and

means for replacing (608 – figure 6; ¶ 0049) said subset of original broadcast meta data (i.e., interactive content) with local meta data (i.e., interactive content more suited to the demographics of local subsystem 628; ¶ 0057) based on the evaluation of the extracted substitution determination parameter (¶ 0049 & 0065).

Regarding Claim 43, Del Sesto discloses a computer-readable medium having computer executable instructions for performing a method of selectively modifying a data signal, the method comprising:

receiving a data signal (601 – figure 6), the data signal comprising a first data component (television signal) and a second data component (interactive content and interactive conditional code) (¶ 0047);

separating the first data component from the second data component (i.e., detector 604 detects the interactive content code 300 and provides the code 300 to server 606) (¶ 0049);

extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from second data component wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of the second data component in said data signal should be replaced (¶ 0045, & 0058-0062);

determining whether to replace a subset of the second data component by performing an evaluation of the evaluation type on said evaluation value (¶ 0056-0058) with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0065, 0056-0058, and 0045);

if replacement of said subset of the second data component is not required then

forwarding the second data component (i.e., interactive content preparer specifies the content not be replaced using OPT field 308) (¶ 0045 and 0058),

merging the forward second data component with the first data component (i.e., passing the signal through data insertion unit 608 unchanged and sending merged signal 609 to transmission facilities 620 unchanged) (¶ 0058, 0060, and 0064); and

if replacement of said subset of the second data component is required then

retrieving a third data component from a database (local interactive content from database 644), wherein the third data component includes local meta data from a local meta data center (i.e., retrieving a local customized application that is designed for the geographic viewership) (¶ 0065 and 0057) forwarding the third data component (figure 6; ¶ 0061 and 0065); replacing a subset of said second data component with the third data component based on the evaluation (¶ 0049 and 0065).

Regarding Claim 44, Del Sesto discloses a method of controlling distribution of enhanced television content for viewers using a data modification device (628 – fig. 6), said method comprising:

receiving a broadcast signal (601 – figure 6) comprising a video component (television signal) and a generic meta data component (interactive content and interactive conditional code) within said data modification system [628], the generic meta data component comprising triggers (interactive content codes) and broadcast meta data (interactive content) (¶ 0047);

extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from the generic meta data component (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0045), said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content

can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content) for determining when a subset of said broadcast meta data component in said broadcast signal should be replaced (¶ 0045, 0058, and 0062);

performing an evaluation of the evaluation type on said evaluation value (¶ 0056-0058) with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked or whether to replace the national interactive content with local interactive content; ¶ 0060-0065) to determine whether to replace said subset of said broadcast meta data with local meta data (server 606 makes the determination based on the value in the OPT field 308) (¶ 0045, 0056-0058, and 0062-0065);

replacing said subset of said broadcast meta data with local meta data in response to a determination in the evaluating step to obtain a modified broadcast signal (¶ 0049 & 0065);

broadcasting the modified broadcast signal [609] (via transmission facilities 620 – figure 6) to the viewers [CPE 648] in a local market (¶ 0065 and 0057).

As for Claim 45, Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a multi-level priority value (i.e., whether the content should be blocked, passed through, or replaced) and said local state comprises a local priority value (¶ 0045 and 0062).

As for Claim 46, Del Sesto teaches wherein:

the generic meta data component further comprises content (¶ 0047); and  
the local meta data comprises triggers and content (¶ 0061 and 0065).

As for Claim 47, Del Sesto discloses the method of controlling distribution of enhanced television content for viewers using said data modification device as set forth in claim 44, said method further comprising:

repeating the evaluation of the evaluation type on said evaluation value with respect to said local state (¶ 0060-0062); and  
broadcasting the broadcasting signal to the viewers in response to a determination in the repeated evaluating step to not make the insertion (¶ 0058 and 0064).

As for Claim 48, Del Sesto teaches wherein the substitution determination parameter [308] comprises a geographic region identifier parameter (i.e., broadcast server 608 inserts a custom interactive content into the video signal 607 based on a determination of custom content broadcast suited to the demographics of the local subsystem 628) said local state comprises a geographic identifier (¶ 0057 and 0045).

As for Claim 49, Del Sesto teaches the method of controlling distribution of enhanced television content for viewers using said data modification device as set forth

in claim 44, said method further comprising: stripping the generic meta data component from the broadcast signal prior to the evaluating step (i.e., code detector 604 receives the video signal, detects the content code 300 and provides the code 300 to server 606 to be evaluated) (¶ 0049).

As for Claim 50, Del Sesto teaches the method of controlling distribution of enhanced television content for viewers using said data modification device as set forth in claim 49, said method further comprising:

repeating the evaluation of the evaluation type on said evaluation value with respect to said local state (¶ 0060-0062),

inserting the generic meta data component back into the broadcast signal in response to a determination in the repeated evaluating step to not make the insertion, to obtain a reconstructed broadcast signal (¶ 0058 and 0064); and

broadcasting the reconstructed broadcast signal to viewers (¶ 0064).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 6, 7, 11, 15, 16, 20, 21, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Sesto.

As for Claims 6-7, Del Sesto discloses the device of claim 1, but fails to disclose that the incoming data terminal is adapted to receive a data signal that conforms to a an ATVEF standard, and a DOCSIS standard. However, Official notice is taken of the fact that it is well known in the art to adapt a data terminal of a broadcast headend to receive a data signal conforming to an ATVEF standard, for the purposes of enabling communication with enhanced television devices; and a DOCSIS standard, for the purposes of enabling communication with DOCSIS devices, respectively. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the incoming data terminal of Del Sesto to receive a data signal that conforms to an ATVEF standard, and a DOCSIS standard, for the purpose of enabling communication with any well known standard such as ATVEF devices, and DOCSIS devices in order to provide compatibility with any interactive television system.

As for Claim 11, Del Sesto fails to disclose wherein a format of the data on said incoming data terminal is an DVD format. Official notice is taken of the fact that it is well known in the art to employ a DVD format, enabling communication with DVD compatible devices. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Del Sesto to include wherein a format of the data on said incoming data terminal is an DVD format for the purpose of enabling communication with DVD compatible devices in an interactive television system.

As for Claims 15 and 16, Del Sesto discloses the data modification device of claim 14, but fails to specifically disclose wherein the storage device is a recordable disk or a RAM. The examiner gives Official Notice that it is notoriously well known in the art to employ recordable disks and memory devices such as RAM to store data on for retrieval by a processor. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Del Sesto to include wherein the storage device is a recordable disk or RAM for the purpose of storing large amounts of data in a reliable computer media.

As for Claims 20 and 21 Del Sesto discloses the device of claim 2, but fails to disclose wherein the processor is a reprogrammable device or an ASIC. Official notice is taken of the fact that it is well known in the art to implement a processor as a reprogrammable device, for the purpose of increasing system flexibility; and to implement a processor as an ASIC, for the purpose of improving device efficiency by using a processor designed for a specific application. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the processor of Del Sesto as a reprogrammable device, for the purpose of increasing system flexibility; and to implement a processor as an ASIC, for the purpose of improving device efficiency by using a processor designed for a specific application in the cable headend.

As for Claim 26, Del Sesto discloses the device of claim 22, but fails to disclose the receiver is a DVD enabled television. Official notice is taken of the fact that it is well known in the art to implement a receiver as a DVD enabled television, thus enabling compatibility with programming provided in DVD format. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the receiver of Del Sesto to include a DVD enabled television, for the benefit of enabling compatibility with programming provided in DVD format.

9. Claims 3, 30, 33-35, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Sesto in view of Picco et al. "Picco" (USPN 6,029,045).

As for Claims 3, 30, 33, and 40 Del Sesto teaches wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a priority value (i.e., whether the content should be blocked, passed through, or replaced) and interactive content value (i.e., flag indicates type of interactive content) (¶ 0045 and 0062). Further, Del Sesto discloses the broadcast server 608 inserts a custom interactive content into the video signal 607 based on a determination of custom content broadcast suited to the demographics of the local subsystem 628 (¶ 0057). However, Del Sesto fails to specifically disclose wherein the evaluation type of the substitution parameter comprises a string comparison and the evaluation value of said substitution determination parameter comprises a geographic region name value.

In an analogous art, Picco discloses wherein the evaluation type of the substitution parameter (i.e., content profile associated with local content) comprises a string comparison and the evaluation value of said substitution determination parameter comprises a geographic region name value (i.e., based on the value of the geographic region indicated in the content profile, such as zip code) (Col. 7, line 33 to Col. 8, line 39). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Del Sesto to include wherein the evaluation type of the substitution parameter comprises a string comparison and the evaluation value of said substitution determination parameter comprises a geographic region name value as taught by Picco for the benefit of using a known technique to improve a similar method in the same way so as to facilitate targeting content to specific receivers for the purpose of providing content that is more appealing for the viewer.

As for Claims 34 and 35, Del Sesto and Picco fail to disclose wherein the processor is a reprogrammable circuit or an ASIC. Official notice is taken of the fact that it is well known in the art to implement a processor as a reprogrammable device, for the purpose of increasing system flexibility; and to implement a processor as an ASIC, for the purpose of improving device efficiency by using a processor designed for a specific application. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Del Sesto and Picco to include a reprogrammable circuit, for the purpose of increasing system flexibility; and to

implement a processor as an ASIC, for the purpose of improving device efficiency by using a processor designed for a specific application in the cable headend.

10. Claims 4, 13, 36, 51, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Sesto in view of Kalluri et al. "Kalluri (USPN 5,937,331) [of record].

As for Claim 4, Del Sesto discloses wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a priority value (i.e., whether the content should be blocked, passed through, or replaced) and interactive content value (i.e., flag indicates type of interactive content) (¶ 0045 and 0062). Del Sesto however is silent on disclosing OPT filed 308 comprising a unique identifier for said data modification device.

In an analogous art, Kalluri discloses transmitting a trigger 200 or "meta data" from remote network 10 to broadcast station 50, wherein the trigger 200 comprises a unique identifier (i.e., unit address field 210) for the data modification device (Col. 6, lines 18-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the data modification device of Del Sesto to include wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution parameter comprises a unique identifier for said data modification device as taught by Kalluri for the benefit of directing local subsystems on the protocols of replacing or inserting interactive content.

As for Claim 13, Del Sesto and Kalluri disclose, in particular Del Sesto teaches wherein the data signal comprises a video data component and a meta data component (¶ 0047).

As for Claim 36, Del Sesto discloses wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a priority value (i.e., whether the content should be blocked, passed through, or replaced) and interactive content value (i.e., flag indicates type of interactive content) (¶ 0045 and 0062). Del Sesto however is silent on disclosing OPT filed 308 comprising a unique identifier for said data modification device.

In an analogous art, Kalluri discloses transmitting a trigger 200 or “meta data” from remote network 10 to broadcast station 50, wherein the trigger 200 comprises a unique identifier (i.e., unit address field 210) for the data modification device (Col. 6, lines 18-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Del Sesto to include wherein the substitution parameter comprises a unique identifier for said data modification device as taught by Kalluri for the benefit of directing local subsystems on the protocols of replacing or inserting interactive content.

As for Claim 51, Del Sesto discloses wherein the evaluation type of the substitution parameter comprises a comparison and the evaluation value of said substitution determination parameter [308] comprises a priority value and interactive content value (i.e., flag indicates type of interactive content) (¶ 0045 and 0062). Del Sesto however is silent on disclosing OPT filed 308 comprising a unique identifier for said data modification device.

In an analogous art, Kalluri discloses transmitting a trigger 200 or “meta data” from remote network 10 to broadcast station 50, wherein the trigger 200 comprises a unique identifier (i.e., unit address field 210) and the local state (program source 58) comprises a unique identifier for a machine implementing said method (Col. 6, lines 18-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Del Sesto to include wherein the evaluation value of the substitution parameter comprises a unique identifier and said local state comprises a unique identifier for a machine implementing said method as taught by Kalluri for the benefit of directing local subsystems on the protocols of replacing or inserting interactive content.

As for Claim 52, Del Sesto and Kalluri discloses the method of claim 51, but fail to disclose the generic parameters and the local parameters are defined by options established by an Advanced Television Enhancement Forum specification. Official notice is taken of the fact that it is well known in the art to define enhanced television content according to an ATVEF specification, for the benefit of ensuring compatibility

with ATVEF devices. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Del Sesto and Kalluri to include the generic parameters and the local parameters are defined by options established by an Advanced Television Enhancement Forum specification, for the benefit of ensuring compatibility with ATVEF devices.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS PARRY whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN MILLER can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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